

STATEMENT OF PROCEEDINGS  
REGULAR MEETING OF THE AIR POLLUTION CONTROL BOARD  
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT  
WEDNESDAY, JUNE 21, 2000

Meeting was called to order at 9:10 a.m.

Present: Members Dianne Jacob, Chairwoman; Ron Roberts, Vice Chairman; Greg Cox; Pam Slater; Ron Roberts and Bill Horn; also Thomas J. Pastuszka, Clerk.

Approval of Statement of Proceedings/Minutes for meetings of April 12, 2000, May 9, 2000, May 10, 2000 and May 16, 2000.

**ACTION:**

ON MOTION of Member Slater, seconded by Member Roberts, the Members of the Air Pollution Control Board approved the minutes for the meetings of April 12, 2000, May 9, 2000, May 10, 2000 and May 16, 2000.

AYES: Cox, Jacob, Slater, Roberts, Horn

Public Communication  
(No Speakers)

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Air Pollution Control District Agenda Items

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1. NOTICED PUBLIC HEARING:  
ADOPT AMENDMENTS TO RULE 40 - PERMIT AND OTHER FEES AND RULE 42 –  
HEARING BOARD FEES
2. NOTICED PUBLIC HEARING:  
ADOPTION OF AMENDMENTS TO RULE 25 – APPEALS
3. OPPOSITION TO AB 2576 ELIMINATING PENALTIES FOR SUBSTANTIAL VAPOR  
CONTROL SYSTEM NONCOMPLIANCE AT GASOLINE STATIONS

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APCB1     **SUBJECT: NOTICED PUBLIC HEARING:**  
             **ADOPT AMENDMENTS TO RULE 40 - PERMIT AND OTHER FEES AND**  
             **RULE 42 – HEARING BOARD FEES**  
             (Supv. Dist: All )

**ISSUE/REFERENCE:**

State law authorizes air pollution control districts to adopt a schedule of fees to recover permitted stationary source program costs not otherwise funded. These proposed amendments to Rules 40 and 42 are in accordance with Board direction of June 17, 1998 (APCB #4), adopting recommendations of a Fee Review Group made up of large and small local business representatives (Attachment IV). For FY 1999-2000, changes in labor distribution between fee schedules were not significant and no fee adjustment was required. Over a ten-year period (from FY 1990-91 to FY 2000-01), fee revenue has increased at a very low average rate of 0.9% (\$53,195) per year.

Compared to FY 1999-2000, proposed FY 2000-01 fee revenue will increase from \$5,962,400 to \$6,279,338, an increase of \$316,938 (5.3%). Compared to projected actual FY 1999-2000 fee revenue, proposed FY 2000-01 fee revenue will increase from \$6,065,600 to \$6,279,338, or \$213,738 (3.5%). The increase is needed to recover stationary source program budgeted cost increases (\$316,938), including 3% salary increases in FY 2000-01 (\$191,000), Services and Supplies and fixed asset increases (\$186,018), and the addition of three Compliance inspectors (\$151,520) needed to increase the number of inspections, offset by staff reductions from process streamlining in source testing and permitting (-\$211,600).

Over the past five years no compliance inspectors have been added despite increases in the number and complexity of permit inspections, up 300 (4%) from 8400 in FY 1995-96 to 8700 projected for FY 2000-01, and increased nuisance complaints, up 400 (67%) from 600 to 1000 in the last three years. During this time the Compliance Division has been streamlining and improving processes. Improvements include providing cell phones and pagers to each inspector to improve response times, and laptops, electronic forms, and printers to reduce report writing time. Laptops are now downloaded with the permit database to increase information available to inspectors in the field. Improvements have reduced average inspection times by 0.5 hours (14%), from 3.5 to 3.0 hours. Despite improvements, new regulations, increased inspections, and public nuisance complaints, activities have increased the workload beyond existing resources. Allowing for continued streamlining and process improvements, a workload review indicates a need for a minimum of three additional inspectors.

The division's inspection and complaint programs have been continuously reviewed by the Compliance Improvement Team (CIT), made up of industry, small business, environmental groups, and District staff. The team has met regularly for several years. At the May 2000 meeting, participants voted to support the proposal to add three additional inspectors.

In FY 2000-01 and for the remainder of the nine-year County Information Technology (IT) contract, the District will receive a General Fund allocation offsetting increased IT costs, thus avoiding passing the cost increases on to District permitted customers. The FY 2000-01 allocation is \$149,582.

### **Permit Renewal Fees**

Permit renewal fees recover costs related to permit inspections and permit system maintenance.

Fixed permit renewal fees are based on the average renewal hours for each specific type of equipment times the Rule 40, Fee Schedule 94 labor rates. Average renewal hours for each fee schedule are based on data for

the last five years. Over 99% of permits and 77% of fee schedules have fixed renewal fees. Less than one percent (<1%) of permitted equipment is charged fees based on time and materials (T&M).

Permit Renewal fixed fee schedules will increase an average of \$16, ranging from a \$725 (21%) decrease to a \$632 (61%) increase. There are 203 existing renewal fee schedules, including 157 (77%) fixed fees and 46 (23%) T&M fees. Fifty-two (33%) of the fixed fee schedules will decrease an average of \$62, 101 (65%) will increase an average of \$58, and 4 (2%) will remain the same. The largest increase, \$632, is related to implementing District Rule 69.3.1, requiring Best Available Retrofit Control Technology for non-aircraft turbine gas engines. Implementation required increased engineering hours to develop revised permit conditions and increased annual inspection hours to monitor compliance with the additional requirements.

District regulations require separate fee schedules for facilities whose high renewal costs would increase the fee for other facilities in the same equipment category by more than 10%. Accordingly, 15 facility-specific renewal fee schedules will be established for companies whose costs far exceeded the average in a specific category of permitted equipment. The costs at these facilities were incurred for a variety of reasons including providing assistance and oversight to bring out-of-compliance facilities back into compliance, developing facility-specific source testing protocols, and providing requested assistance in modifying a facility's processes to reduce emissions and modify permit conditions.

### **Application Fees**

Application fees recover costs related to evaluating applications for Authority to Construct or a Permit to Operate equipment subject to District regulations. Fixed fees are based on the average hours to complete the evaluation of an initial permit application or modification for the type of equipment being evaluated. Fixed fees are established for equipment or processes where evaluation hours are relatively consistent, as documented by labor tracking data. T&M fees are used for equipment or processes where labor hours vary significantly from one application to another. T&M fees are also used where there have been no (or few) recent applications, and there is little basis for estimating the hours to complete an application evaluation.

Application fixed fee schedules will increase an average of \$40, ranging from a \$550 (22%) decrease to a \$439 (37%) increase. There are 220 application fees, including 54 (25%) fixed fees and 166 (75%) T&M fees. Twenty-three (43%) of the fixed fee schedules will decrease an average of \$196 and 23 (43%) will increase an average of \$110, 2 (3.5%) will remain the same, 2 (3.5%) will be deleted, and 4 (7%) will become T&M fees. Additionally, 15 T&M fees will become fixed fees and 29 (17%) T&M fees will be deleted due to obsolescence. The largest increase, \$439, is related to evaluating applications for abrasive blasting booths. Two years ago, the less complex applications for this type of equipment became eligible for the registration process. Those remaining in this fee schedule are the more complex applications, involving control equipment, toxics evaluation and new source review. Therefore, the average hours for those remaining in this fee schedule have increased significantly.

### **Emissions Fees**

The Emissions Fee will remain at \$82 per ton per year. As recommended June 17, 1998 (APCB #4), by

the 1997-98 Fee Review Group (Attachment IV), the District evaluated the appropriateness of using an average of 5 tons of Criteria Pollutant Emissions per year for determining source-specific emissions fees for sources in the 5-10 tons per year range and an average of 1/2 ton per year for sources with less than 5 tons per year. Previously, only facilities with 10 tons or more emissions per year were inventoried annually to determine actual emissions and those with less than 10 tons per year were estimated to have a 1/2 ton per year average.

The District inventoried more than 200 facilities with emissions less than 10 tons per year and found 32 facilities emitting 5-10 tons per year. Analysis of these and other small facilities also showed that facilities with emissions below 5 tons per year emit an average of at least 1 ton per year, not 1/2 ton as previously estimated.

These findings were reported to three standing process improvement teams consisting of business customers and District staff, the Air Pollution Permit Streamlining Team, the Compliance Improvement Team, and the Source Test Improvement Team. Based on the findings, these teams supported a proposal to expand the Emissions Inventory to include facilities with 5-10 tons of emissions per year and charge emissions fees based on actual emissions, and to charge emissions fees for sources with less than 5 tons per year based on 1 ton per year of emissions. They also supported using increased Emissions Fee revenue (\$200,000) to offset local costs of the Air Toxics “Hot Spots” Program.

Accordingly, the recommended revisions include facilities with 5-10 tons of any single Criteria Pollutant per year in the annual Emissions Inventory, applying the \$82 per ton emissions fee. Additionally, facilities with less than 5 tons emissions per year will pay an \$82 annual emissions fee, based on average emissions of one ton per year.

### **Air Toxics “Hot Spots” Fees**

The Air Toxics “Hot Spots” Program is a state-mandated program, with state fees established for affected facilities. There are also local fees to cover costs of local program implementation. The recommended revisions would delete local fees charged to recover the cost of inventorying toxic substances and for the general administration of local Hot Spots program. These program costs (\$200,000) would be offset with increased Emissions Fee revenues. State fees would continue to be collected by the District. Additionally, costs associated with emissions testing, public health risk assessment evaluations, public notifications, and facility risk reduction audits and plans will continue to be recovered through T&M fees.

Deleting the local program fee is recommended because it has become increasingly difficult to allocate local program costs fairly. This is due in part to state decisions categorizing facilities and grouping high-risk, small-business facilities into “industry-wide” categories that pay small fees or are excluded entirely from the program and, therefore, do not pay a fair share of program costs. Further, as the state removes facilities from the program, a decreasing number of facilities are left in the program to pay fees supporting local program costs.

The effect of these changes on most small businesses will be minimal, with the \$41 increase in Emissions Fee

offset by deleting the “Hot Spots” fee of \$30 - \$50.

### **Source (Emissions) Testing Fees**

The Source Test Improvement Group has developed a pilot program for eligible companies with good compliance records to opt for a reduced frequency of emissions testing. As a result, two new Source Test fee schedules were added to collect an annual fee estimate (T&M) applicable to pilot program facilities. The first, Fee Schedule 92u, for source test cycles of one unannounced test every five years, collects one-fifth the cost each year. The second, Fee Schedule 92v, for facilities with one scheduled and one unannounced test every four years or one unannounced test every two years collects one-half the cost each year.

### **Hearing Board Fees**

Rule 42-Hearing Board Fees will be amended to require payment of the appropriate Hearing Board Fee when a petition for rehearing is filed. Currently, Hearing Board Fees (\$18,000/year) recover only about half the total (\$37,000) cost of the hearing board, including District staff, County Counsel, Board Clerk, and Noticing. The new fee will recover an additional \$2,000 (5%) of total Hearing Board costs, and about 50% of the cost of rehearings. No fee is currently charged for a rehearing. However, the time and costs involved often equal or exceed those of the original hearing.

A public workshop to discuss the proposed changes to Rule 40 and Rule 42 was held on April 12, 2000, and there was no opposition to the proposed rule revisions. The workshop report is Attachment III.

### **FISCAL IMPACT:**

Revenues from the proposed fees are reflected in the FY 2000-02 proposed District Operational Plan. Fees recover 72% of the \$8,977,000 stationary source program cost. Approval of the recommendation will recover the full cost of the Air Pollution Control program through a combination of fees, \$6,279,300 (54%), federal and state grant revenue, \$1,866,900 (16%), vehicle registration revenue, \$2,555,680 (22%), interest, penalties, and miscellaneous revenue \$523,000 (5%), District Reserves, \$237,000 (2%), and General Fund allocation for IT costs \$149,582 (1%).

### **BUSINESS IMPACT STATEMENT:**

Total fee revenue from applications, renewals, and emissions fees paid by businesses will increase \$316,938 (5.3%). Out of 157 fixed renewal fees, 102 (65%) are increasing an average of \$58 and 52 (33%) are decreasing an average of \$62.

As provided by Rule 40(b)(3), 15 facility-specific renewal fee schedules are being established for companies whose costs far exceeded the average in a specific category of permitted equipment. District costs for these facilities were incurred for a variety of reasons including providing assistance and oversight to bring out-of-compliance facilities back into compliance, developing facility-specific source testing protocols, and providing requested assistance in modifying a facility's processes to reduce emissions and modify permit conditions.

The \$82 per ton emissions fee will remain the same. After surveying facilities with emissions of less than 10 tons per year and evaluating the results, it was determined there are 32 businesses emitting 5-10 tons per year, and the average emissions of remaining facilities (less than 5 tons per year) is 1 ton per year. With input from several workgroups consisting of business customers and District staff, the 32 businesses with annual emissions between 5 and 10 tons per year have been added to the emissions inventory and will pay \$82 per ton emissions fees, and emission fees for facilities not individually inventoried (less than 5 tons of emissions per year) is increased from \$41 to \$82 based on average estimated emissions of 1 ton per year.

The additional emissions fee revenue associated with these changes will recover costs of the local Air Toxics "Hot Spots" program, and the local program fee will be deleted. The effect on most small businesses will be minimal, deleting the \$30 or \$50 fee and increasing the Emissions Fee \$41. State program fees will continue, and T&M fees will be charged for required Risk Assessments.

**RECOMMENDATION:**

**AIR POLLUTION CONTROL OFFICER:**

Make appropriate findings, as required by Section 40727 of the Health and Safety Code, and adopt the Resolution amending Rule 40 - Permit and Other Fees and Rule 42 - Hearing Board Fees (Attachment II). This would amend Rule 40 and Rule 42 to more closely reflect District costs, including (a) revising permit application and renewal fees, (b) deleting the Air Toxic Hot Spots fee, (c) revising source test fees, and (d) revising Hearing Board fees.

**ACTION:**

ON MOTION of Member Slater, seconded by Member Roberts, the Members of the Air Pollution Control Board closed the Hearing and took action as recommended, on Consent, pursuant to Section 40727 of the Health and Safety Code, made the appropriate findings as set out in Board of Supervisors Exhibit No. 1, and adopted Resolution No. 00-225, entitled: RESOLUTION ADOPTING AMENDMENTS TO RULE 40-PERMITS AND OTHER FEES AND RULE 42-APPEALS OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

AYES: Cox, Jacob, Slater, Roberts, Horn

APCB 2 **SUBJECT: NOTICED PUBLIC HEARING**  
**ADOPTION OF AMENDMENTS TO RULE 25 - APPEALS**  
(Supv. Dist: All )

**ISSUE/REFERENCE:**

Rule 25 specifies requirements and procedures for appealing and requesting a stay of a permit-related action of the Air Pollution Control Officer to the Air Pollution Control District Hearing Board. Permit-related actions include granting or denying applications for Emission Reduction Credit (banking) Certificates. Rule

25 currently specifies that an appeal must be filed within 10 days of notice of a permit-related action. Health and Safety Code Sections 42302 and 42302.1 were recently revised to extend the applicant and public appeal time from 10 to 30 days. The proposed amendments to Rule 25 reflect these changes of state law and make other minor clarifications.

**RECOMMENDATION:**

**AIR POLLUTION CONTROL OFFICER:**

Adopt the resolution amending Rule 25 of the District Rules and Regulations and make appropriate findings:

- (i) of necessity, authority, clarity, consistency, non-duplication and reference as required by Section 40727 of the State Health and Safety Code;
- (ii) that amending Rule 25 will alleviate a problem and will not interfere with attainment of ambient air quality standards (Section 40001 of the State Health and Safety Code);
- (iii) that an assessment of the socioeconomic impact is not required by Section 40728.5 of the State Health and Safety Code because amending Rule 25 will not affect air quality or emission limitations; and
- (iv) that it is certain there is no possibility that amending Rule 25 may have a significant adverse effect on the environment, and this action is exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15061(b)(3)

**FISCAL IMPACT:**

The recommended action will have no fiscal impact on the District.

**ACTION:**

ON MOTION of Member Slater, seconded by Member Roberts, the Members of the Air Pollution Control Board closed the Hearing and took action as recommended, on Consent, pursuant to Section 40727 of the Health and Safety Code, made the appropriate findings as set out in Board of Supervisors Exhibit No. 1; and adopted Resolution No. 00-226, entitled: RESOLUTION AMENDING RULE 25 OF REGULATION II OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

AYES: Cox, Jacob, Slater, Roberts, Horn

APCD 3. **SUBJECT: OPPOSITION TO AB 2576 ELIMINATING PENALTIES FOR SUBSTANTIAL VAPOR CONTROL SYSTEM NONCOMPLIANCE AT GASOLINE STATIONS**  
(Supv. Dist: All )

**ISSUE/REFERENCE:**

Gasoline vapors contribute to smog formation and contain toxic air contaminants that directly cause increased cancer risks to the public. AB 2576 would require air districts to notify a gasoline station operator of gasoline vapor control system defects and prohibit districts from issuing a notice of violation and imposing penalties if a defective component is repaired within seven days. Defects substantially impair system effectiveness. This would allow gasoline station operators to stop all maintenance activities at stations and wait for District inspectors to advise them of component defects before taking any action. This will result in substantial excess emissions that would have to be compensated for by more stringent emission control requirements on other businesses. Cancer risk to the public would also be significantly increased

**RECOMMENDATION:**

**AIR POLLUTION CONTROL OFFICER:**

Oppose AB 2576.

**FISCAL IMPACT:**

AB 2576 will cause District costs to increase by an unknown amount as a result of having to spend more time inspecting gasoline stations with increased noncompliance problems.

**ACTION:**

ON MOTION of Member Slater, seconded by Member Roberts, the Members of the Air Pollution Control Board took action as recommended, on Consent.

AYES: Cox, Jacob, Slater, Roberts, Horn

There being no further business, the Board adjourned at 11:55 a.m.

THOMAS J. PASTUSZKA  
Clerk of the Air Pollution Control Board  
San Diego County Air Pollution  
Control District

Notes by: Galang

NOTE: This Statement of Proceedings sets forth all actions taken by the San Diego County Air Pollution Control Board on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.

